

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SAMUEL DWAYNE DAVIS,)	
)	
<i>Petitioner,</i>)	
)	
v.)	3:05-cv-424
)	<i>Phillips</i>
)	
JACK MORGAN, Warden,)	
)	
<i>Respondent.</i>)	

JUDGMENT ORDER

For the reasons expressed in the memorandum filed herewith, respondent's motion to dismiss and/or for summary judgment is **GRANTED** and this action is **DISMISSED**. Should the petitioner give timely notice of an appeal from this decision, such notice will be treated as an application for a certificate of appealability, which under the circumstances is **DENIED**. The court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, this court hereby **DENIES** the petitioner leave to proceed *in forma pauperis* on appeal.

E N T E R:

s/ Thomas W. Phillips
United States District Judge

ENTERED AS A JUDGMENT
s/ Patricia L. McNutt
CLERK OF COURT